



General Assembly

February Session, 2014

***Raised Bill No. 250***

LCO No. 1203



Referred to Committee on HUMAN SERVICES

Introduced by:  
(HS)

***AN ACT CONCERNING FAIR HEARINGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-60 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2014*):

3 (a) An aggrieved person authorized by law to request a fair hearing  
4 on a decision of the Commissioner of Social Services or the conservator  
5 of any such person on [his] such person's behalf may make application  
6 for such hearing in writing over [his] such person's signature to the  
7 commissioner and shall state in such application in simple language  
8 the reasons [why he claims to be aggrieved] for aggrievement. Such  
9 application shall be mailed to the commissioner [within] not later than  
10 sixty days after the [rendition] date of such decision. The  
11 commissioner shall thereupon hold a fair hearing [within] not later  
12 than thirty days from the date of receipt thereof and shall, at least ten  
13 days prior to the date of such hearing, mail a notice, giving the time  
14 and place thereof, to such aggrieved person, or if the application  
15 concerns a denial of or failure to provide emergency housing, the  
16 commissioner shall hold a fair hearing [within] not later than four

17 business days from the date of receipt thereof, and shall make all  
18 reasonable efforts to provide notice of the time and place of the fair  
19 hearing to such aggrieved person at least one business day prior to  
20 said hearing. A reasonable period of continuance may be granted for  
21 good cause. The aggrieved person shall appear personally at the  
22 hearing, unless [his] such person's physical or mental condition  
23 precludes appearing in person, and may be represented by an attorney  
24 or other authorized representative. [A stenographic or mechanical  
25 record shall be made of each hearing, but need not be transcribed  
26 except (1) in the event of an appeal from the decision of the hearing  
27 officer or (2) if a copy is requested by the aggrieved person, in either of  
28 which cases it shall be furnished by the Commissioner of Social  
29 Services without charge. The Commissioner of Social Services and any  
30 person authorized by him to conduct any hearing under the provisions  
31 of this section shall have power to administer oaths and take testimony  
32 under oath relative to the matter of the hearing and may subpoena  
33 witnesses and require the production of records, papers and  
34 documents pertinent to such hearing. No witness under subpoena  
35 authorized to be issued by the provisions of this section shall be  
36 excused from testifying or from producing records, papers or  
37 documents on the ground that such testimony or the production of  
38 such records or other documentary evidence would tend to  
39 incriminate him, but such evidence or the records or papers so  
40 produced shall not be used in any criminal proceeding against him. If  
41 any person disobeys such process or, having appeared in obedience  
42 thereto, refuses to answer any pertinent question put to him by the  
43 commissioner or his authorized agent or to produce any records and  
44 papers pursuant thereto, the commissioner or his agent may apply to  
45 the superior court for the judicial district of Hartford or for the judicial  
46 district wherein the person resides, or to any judge of said court if the  
47 same is not in session, setting forth such disobedience to process or  
48 refusal to answer, and said court or such judge shall cite such person to  
49 appear before said court or such judge to answer such question or to  
50 produce such records and papers and, upon his refusal to do so, shall

51 commit such person to a community correctional center until he  
52 testifies, but not for a longer period than sixty days. Notwithstanding  
53 the serving of the term of such commitment by any person, the  
54 commissioner or his agent may proceed with such inquiry and  
55 examination as if the witness had not previously been called upon to  
56 testify. Officers who serve subpoenas issued by the commissioner or  
57 under his authority and witnesses attending hearings conducted by  
58 him hereunder shall receive like fees and compensation as officers and  
59 witnesses in the courts of this state to be paid on vouchers of the  
60 commissioner on order of the Comptroller.]

61 (b) If the Department of Social Services plans to conduct a hearing  
62 via remote computer access, the department shall provide written  
63 notification to any person requesting such hearing of (1) the right to  
64 have an in-person hearing if there is a specific need for such a hearing,  
65 and (2) the need to request such an in-person hearing.

66 (c) There is established, within the Department of Social Services, an  
67 Office of Administrative Appeals, independent from legal counsel for  
68 the Department of Social Services and any other division of the  
69 department. The Office of Administrative Appeals shall conduct all  
70 administrative appeals from decisions made by the Commissioner of  
71 Social Services or the commissioner's designee in accordance with  
72 chapter 54. The Commissioner of Social Services shall appoint an  
73 administrator of the Office of Administrative Appeals and such  
74 administrator shall report directly to the commissioner. The  
75 commissioner may only remove the administrator for cause.

76 (d) The Commissioner of Social Services and any person authorized  
77 by the commissioner to conduct any hearing under the provisions of  
78 this section shall have power to administer oaths and take testimony  
79 under oath relative to the matter of the hearing and may subpoena  
80 witnesses and require the production of records, papers and  
81 documents pertinent to such hearing. No witness under subpoena  
82 authorized to be issued by the provisions of this section shall be

83 excused from testifying or from producing records, papers or  
84 documents on the ground that such testimony or the production of  
85 such records or other documentary evidence would tend to  
86 incriminate such witness, but such evidence or the records or papers so  
87 produced shall not be used in any criminal proceeding against such  
88 witness.

89 (e) If any person refuses to comply with the provisions of subsection  
90 (d) of this section or, having appeared in obedience thereto, refuses to  
91 answer any pertinent question put to such person by the commissioner  
92 or the commissioner's authorized agent or produce any records and  
93 papers pursuant thereto, the commissioner or the commissioner's  
94 agent may apply to the superior court for the judicial district of  
95 Hartford or for the judicial district wherein the person resides, or to  
96 any judge of such court if the court is not in session, setting forth such  
97 disobedience to process or refusal to answer. Such court or judge shall  
98 order such person to appear to answer such question or to produce  
99 such records and papers. If such person refuses the order, such court  
100 or judge shall commit such person to a community correctional center  
101 until such person testifies, but not for more than sixty days.

102 (f) Notwithstanding any term of commitment served pursuant to  
103 subsection (e) of this section, the commissioner or the commissioner's  
104 agent may proceed with the inquiry and examination as if the witness  
105 had not previously been called upon to testify. Officers who serve  
106 subpoenas issued by the commissioner or under the commissioner's  
107 authority and witnesses attending hearings conducted by the  
108 commissioner shall receive like fees and compensation as officers and  
109 witnesses in the courts of this state to be paid on vouchers of the  
110 commissioner on order of the Comptroller.

111 (g) Notwithstanding the provisions of section 4-181, if the  
112 Department of Social Services is conducting a hearing in a contested  
113 case and it also has an interest adverse to any party in the proceeding,  
114 the hearing officer may not communicate with any other employee of

115 the agency, including its counsel, directly or indirectly, in connection  
116 with any issue of fact or law involved in that hearing, without advance  
117 notice and opportunity for all parties to participate on the record.

118 (h) A stenographic or mechanical record shall be made of each  
119 hearing, but need not be transcribed except (1) in the event of an  
120 appeal from the decision of the hearing officer, or (2) if a copy is  
121 requested by the aggrieved person, in either of which cases the  
122 transcript shall be furnished by the commissioner without charge.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2014</i>	17b-60
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***Statement of Purpose:***

To ensure impartial administration of justice in administrative hearings concerning contested decisions by the Department of Social Services.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*